

State of New Jersey

CHRIS CHRISTIE

Governor

KIM GUADAGNO

Lt. Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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JENNIFER VELEZ
Commissioner

VALERIE HARR Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

E.W.,

PETITIONER,

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

٧.

OAL DKT. NO. HMA 05984-14

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

BERGEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the entire contents of the OAL case file. Neither Party filed exceptions in this matter. Procedurally, the time period for the Agency

Head to file a Final Agency Decision is March 3, 2015, pursuant to an Order of Extension.

The issue in this case is whether Petitioner rebutted the presumption that the transfer of \$56,528 to her son, J.W., was done solely for a reason other than qualifying for Medicaid. On April 4, 2014, Petitioner was approved for ancillary services only from January 1, 2014 to July 1, 2014. Bergen County Board of Social Services (BCBSS) imposed a six month penalty based upon its determination that \$56,528 had been transferred for less than fair market value. After reviewing additional documentation which showed Petitioner received fair market value for her transfers, BCBSS reduced the transfer penalty to \$29,218.00. At the hearing, Petitioner's representative, J.W., testified and provided additional documentation to show that the balance of transferred money was used to pay Petitioner's rent, utilities and other bills.

I accept the ALJ's fact-findings, which are based, in part, upon his assessment of the witnesses who testified at the administrative hearing. The fact-finder's assessment of the credibility of witnesses is entitled to deference by the reviewing agency head. Clowes v. Terminix, 109 N.J. 577 (1988). Based upon J.W.'s testimony as well as the letters from Petitioner's creditors, I agree with the ALJ that the transfers to J.W. were used to pay Petitioner's debts. As a result, I agree that under the unique and specific facts and circumstances presented here, Petitioner is not subject to a transfer penalty.

THEREFORE, it is on this day of JANUARY 2015,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Valerie J. Harr, Director

Division of Medical Assistance

and Health Services